

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,730

IN THE MATTER OF:

Served December 4, 2008

SUKA MEDICAL TRANSPORT, INC.,)
Suspension and Investigation of)
Revocation of Certificate No. 1110)

Case No. MP-2008-155

This matter is before the Commission on respondent's response to Order No. 11,632, served October 16, 2008, which directed respondent to produce statements from its clients stating whether and to what extent they received transportation service from respondent during the period beginning June 7, 2008, and ending October 16, 2008.

I. BACKGROUND

Under the Compact, a WMATC carrier may not engage in transportation subject to the Compact if the carrier's certificate of authority is not "in force."¹ A certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.²

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 1110 for a minimum of \$1.5 million in combined-single-limit liability coverage and maintain on file with the Commission at all times proof of coverage in the form of a WMATC Certificate of Insurance and Policy Endorsement (WMATC Insurance Endorsement) for each policy comprising the minimum.

Certificate No. 1110 was rendered invalid on June 7, 2008, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 11,401, served June 10, 2008, noted the automatic suspension of Certificate No. 1110 pursuant to Regulation No. 58-02, directed respondent to cease transporting passengers for hire under Certificate No. 1110, and gave respondent thirty days to replace the cancelled endorsement and pay the \$50 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 1110.

Respondent paid the late fee on June 23, 2008, and submitted a \$1.5 million primary WMATC Insurance Endorsement on June 10, 2008, but the effective date of the new endorsement is June 19, 2008, instead of June 7, 2008. This means that respondent was without insurance coverage for twelve days, from June 7, 2008, through June 18, 2008.

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

Under Regulation No. 58-14:

If a carrier's operating authority is suspended under Regulation No. 58-12 and the effective date of a later-filed replacement Endorsement falls after the automatic suspension date, the carrier must verify timely cessation of operations in accordance with Commission Rule No. 28 and corroborate the verification with client statements and/or copies of pertinent business records, as directed by Commission order.

Order No. 11,426, served June 25, 2008, accordingly directed respondent to verify cessation of operations as of June 7, 2008. Inasmuch as respondent's only tariff covers service rendered to the general public, respondent's verification was to be corroborated with copies of respondent's general business records.

Respondent filed a statement verifying cessation of operations as of June 5, 2008, but bank records produced by respondent showed a substantial number of purchases from gasoline retailers after June 7, 2008. Order No. 11,632, accordingly directed respondent to submit statements from its clients corroborating respondent's cessation of operations from June 7 until October 16.

In the meantime, because respondent was in compliance with Regulation No. 58, Order No. 11,632 lifted the suspension of Certificate No. 1110.

II. RESPONSE AND ORDER TO SHOW CAUSE

Respondent has produced statements from five of twenty clients. The statements corroborate respondent's verification. This leaves fifteen clients who have not confirmed respondent's halt in operations. Respondent does not explain the failure to produce statements from three fourths of its clients. Respondent also does not explain the substantial number of purchases from gasoline retailers after June 7, 2008.

A person who knowingly and willfully violates a provision of the Compact, or a rule, regulation, requirement, or order issued under it, or a term or condition of a certificate shall be subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for any subsequent violation.³ Each day of the violation constitutes a separate violation.⁴ The Commission may suspend or revoke all or part of any certificate of authority for willful failure to comply with a provision of the Compact, an order, rule, or regulation of the Commission, or a term, condition, or limitation of the certificate.⁵

³ Compact, tit. II, art. XIII, § 6(f)(i).

⁴ Compact, tit. II, art. XIII, § 6(f)(ii).

⁵ Compact, tit. II, art. XI, § 10(c).

Respondent shall have thirty days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 1110, for knowingly and willfully violating Article XI, Section 6(a), of the Compact and Order No. 11,401, by conducting operations under an invalid/suspended certificate of authority, and for knowingly and willfully violating Order No. 11,632 by not producing statements from all clients.⁶

THEREFORE, IT IS ORDERED:

1. That respondent shall have thirty days to show cause why the Commission should not assess a civil forfeiture against respondent for knowingly and willfully violating Article XI, Section 6(a), of the Compact, and Order Nos. 11,401 and 11,632.

2. That respondent shall have thirty days to show cause why the Commission should not suspend or revoke Certificate No. 1110 for respondent's willful failure to comply with Article XI, Section 6(a), of the Compact, and Order Nos. 11,401 and 11,632.

3. That respondent may submit within 15 days from the date of this order a written request for oral hearing, specifying the grounds for the request, describing the evidence to be adduced and explaining why such evidence cannot be adduced without an oral hearing.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:



William S. Morrow, Jr.
Executive Director

⁶ See *In re Fon Pius Nde, t/a Piusmed World Transp.*, No. MP-07-187, Order No. 11,217 (Mar. 14, 2008) (failure to produce all documents); *In re Sydney Shuttle, LLC*, No. MP-07-064, Order No. 10,742 (Sept. 5, 2007) (evidence of post-suspension operations and failure to produce all documents); *In re Special People Transp., LLC*, No. MP-06-103, Order No. 10,347, (Mar. 23, 2007) (failure to produce all documents).